## II. REMARKS

Claims 1-20 are all the claims presently pending in this application.

Applicant gratefully acknowledges the Examiner's indication that claims 14-16 and 19-20 would be allowable if rewritten in independent form.However, Applicant submits that all of the claims are allowable.

Claims 1, 3, 9-13 and 17-18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hirata, U.S. Pat. App. Pub. No. 2001/0004373, further in view of Uda, U.S. Pat. No. 6,226,505 further in view of Kondo, U.S. Pat. No. 6,597,728.

Claims 2 and 4-8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hirata, U.S. Pat. App. Pub. No. 2001/0004373, further in view of Uda, U.S. Pat. No. 6,226,505, in view of Kondo, U.S. Pat. No. 6,597,728, and further in view of Maltsev, U.S. Pat. App. Pub. No. 2004/0190438.

These rejections are respectfully traversed in view of the following discussion.

## III. THE PRIOR ART REJECTIONS

### A. The 35 U.S.C. § 103(a) Rejection over Hirata, U.S. Pat. App. Pub. No. 2001/0004373 further in view of Uda, U.S. Pat. No. 6,226,505 further in view of Kondo, U.S. Pat. No. 6,597,728

The Examiner alleges that Hirata, U.S. Pat. App. Pub. No. 2001/0004373, (Hirata), further in view of Uda, U.S. Pat. No. 6,226,505 further in view of Kondo, U.S. Pat. No. 6,597,728, (Unda and Kondo), makes obvious the invention of claims 1, 3, 9-13 and 17-18.

The Examiner alleges that one of ordinary skill in the art would have been motivated to modify Hirata with the teaching from Unda and Kondo to form the invention of claims 1,

3, 9-13 and 17-18. Applicant submits, however that these references would not have been combined and even if combined, the combination would not teach or suggest each element of the claimed invention.

Indeed, Applicant submits, however, that neither Hirata, nor Uda and Kondo, nor any alleged combination thereof, teaches or suggests, "*a majority determination unit which determines whether each of phase moving amount detection values by a plurality of frequency offsets, which are detected for a predetermined time and read out from said frequency offset detection unit, is a positive value or a negative value, and totalizes to determine which of the positive values and the negative values are larger in number, and a detection value conversion unit which converts the phase moving amount detection values read out from said frequency offset detection unit in accordance with a majority determination result from said majority determination unit*."

First, the Examiner states that the reference to Hirata fails to explicitly teach the above-referenced limitation of Applicant's claimed invention. The Examiner then states that "Uda discloses an automatic frequency correction apparatus that determines if the offset is either a positive or negative by means of a positive counter and a negative counter, and based on this result, it is capable of selecting a correction amount."

However, the Examiner fails to identify where Applicant's claimed invention, "*which of the positive values and the negative values are larger in number*," is taught by Uda which merely discloses at the passages cited by the Examiner:

> Offset detection counters 203 and 204 count up selected offset determination result outputs 34 and 35. If at least one of the count values of the offset detection counters 203 and 204 does not reach a predetermined value within a predetermined period of time, a frequency offset is determined. As a result, a positive offset counter result 36 and a negative offset count result 37, each consisting of a binary signal, are output. (Column 3, lines 58-65. Emphasis

added.)

Uda states that the output from the positive offset counter result 36 and the negative offset count result 37 cause a correction amount selection section 205 to read out correction amount data 38 from a storage memory 206 and output the data as a correction amount data 20. (Column 3, line 66, to column 4, line 6.)

Again, Uda at column 5, lines 43-54 states in part:

> After a lapse of a predetermined period of time during which the frequencies of the frame synchronization portions are counted, one of the four states, i.e., states 1 to 4, is determined on the basis of a combination of the two count results output from the counters 203 and 204, as described above.
>
> States 1 to 4 described above will be described in more detail below. State 1 is a state in which a negative offset is detected, so that the negative offset detection counter 204 has not counted up to the predetermined value, but the positive offset detection counter 203 has counted up to the predetermined value.
>
> State 2 is a state in which a positive offset is detected, so that the positive offset detection counter 203 has not counted up to the predetermined value, but the negative offset detection counter 204 has counted up to the predetermined value.
>
> (Emphasis added.)

Therefore, Uda fails to teach or suggest, "*a majority determination unit which determines whether each of phase moving amount detection values by a plurality of frequency offsets, which are detected for a predetermined time and read out from said frequency offset detection unit, is a positive value or a negative value, and totalizes to determine which of the positive values and the negative values are larger in number*...."

Second, Applicant respectfully submits that Hirata would not have been combined with Uda and Kondo as alleged by the Examiner.

In fact, Applicant submits that the Examiner can point to no proper motivation or

suggestion in the references or of one of ordinary skill in the art to urge the combination as alleged by the Examiner.

The Examiner states that if they would have been obvious to combine Hirata with Uda, "for the benefit the performing automatic frequency control."

However, there is no teaching or suggestion in either Hirata or Uda to combine or substitute the positive offset detection counter 203, the negative offset detection counter 204 and the offset look up memory table 206 of Uda with the integrator 5 of Hirata.

Additionally, the Examiner states that it would have been obvious to combine Hirata with Kondo, "for the benefit of determining frequency correction."

However, there is no teaching or suggestion in either Hirata or Kondo to combine or substitute the inter-pilot block phase shift averaging section 5 and the inter-symbol phase shift averaging section 4 with the integrator 5 of Hirata.

In fact, the integrator 5 of Hirata with is completely autonomous and performs a function of integrating the pilot symbols of the common pilot channel, ([0046], lines 8-10), which is completely different in function than Uda's offset determination via the offset detection counters 203 and 204, and Kondo's inter-pilot block phase shift averaging section 5 and inter-symbol phase shift averaging section that 4.

Since the integrator 5 of Hirata is functionally different than the alleged equivalent structures of Uda and Kondo, there cannot be any likelihood of success with the Examiner's alleged combination of these references.

Therefore, Applicant respectfully submits that one of ordinary skill in the art would not have been so motivated to combine the references as alleged by the Examiner.

Therefore, both Uda and Kondo fails to overcome the deficiencies of Hirata.

Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection since the alleged prior art references to Hirata and Unda and Kondo (either alone or in combination) fail to teach or suggest each element and feature of Applicant's claimed invention.

**B. The 35 U.S.C. § 103(a) Rejection over Hirata, U.S. Pat. App. Pub. No. 2001/0004373 further in view of Uda, U.S. Pat. No. 6,226,505, in view of Kondo, U.S. Pat. No. 6,597,728, and further in view of Maltsev, U.S. Pat. App. Pub. No. 2004/0190438**

The Examiner alleges that Hirata, U.S. Pat. App. Pub. No. 2001/0004373, (Hirata), further in view of Uda, U.S. Pat. No. 6,226,505, in view of Kondo, U.S. Pat. No. 6,597,728, and further in view of Maltsev, U.S. Pat. App. Pub. No. 2004/0190438, (Uda, Kondo and Maltsev), makes obvious the invention of claims 2 and 4-8.

The Examiner alleges that one of ordinary skill in the art would have been motivated to modify Hirata with the teaching from Uda, Kondo and Maltsev to form the invention of claims 2 and 4-8. Applicant submits, however that these references would not have been combined and even if combined, the combination would not teach or suggest each element of the claimed invention.

That is, and Maltsev fails to make up for the deficiencies of Hirata, Uda and Kondo as discussed above.

The Examiner asserts Maltsev discloses, "a phase corrector that adjusts phase shift by a multiple of 360°."

However, even assuming *arguendo* that the Examiner's position has some merit, Uda, Kondo and Maltsev fails to teach or suggest, "*a majority determination unit which determines*

*whether each of phase moving amount detection values by a plurality of frequency offsets, which are detected for a predetermined time and read out from said frequency offset detection unit, is a positive value or a negative value, and totalizes to determine which of the positive values and the negative values are larger in number....*"

Therefore Maltsev fails to overcome the deficiencies of Hirata, Uda and Kondo.

Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection since the alleged prior art references to Hirata and Uda, Kondo and Maltsev (either alone or in combination) fail to teach or suggest each element and feature of Applicant's claimed invention.

## IV. FORMAL MATTERS AND CONCLUSION

In view of the foregoing, Applicant submits that claims 1-20, all of the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

Date: February 15, 2008

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